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STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

October 14, 2010

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

Hawaii

Amendment of General Lease No. S-5335 to Hilo Baptist Church, Lessee, for Church and Related Purposes, and Reinstatement of Performance Bond, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-4-56:27 (formerly parcel 14 por.).

APPLICANT:

Hilo Baptist Church, a Hawaii non-profit corporation.

LEGAL REFERENCE:

Section 171-43.1, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Waiakea situated at South Hilo, Hawaii, identified by Tax Map Key: (3) 2-4-56:27 (formerly parcel 14 por.), as shown on the attached map labeled Exhibit A.

AREA:

2.916 acres, more or less.

ZONING:

State Land Use District:	Urban
County of Hawaii CZO:	RS-10

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

Church and related purposes.

LEASE TERM:

Fifty-five (55) years, commencing on October 11, 1985 and expiring on October 10, 2040.

ANNUAL RENT:

\$2,500 for the time period October 11, 2000 to October 10, 2010.

RENTAL REOPENINGS:

At the 15th, 25th, 35th, and 45th years of the lease term. Pursuant to page 2 of the subject lease, "The rental for any ensuing period shall be the fair market rental at the time of reopening."

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u>__</u>
Registered business name confirmed:	YES <u>X</u>	NO <u>__</u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u>__</u>

REMARKS:

At its meeting of October 11, 1985, Item F-2, the Board of Land and Natural Resources approved the issuance of a direct lease by negotiation to Hilo Baptist Church (Lessee). Lessee incurred the expense of subdividing the church parcel from the larger State lands, obtained a zoning variance for construction of the church under the applicable residential zoning, and completed construction of the church in approximately 1988. General Lease No. S-5335 was thereafter executed as of January 25, 1995, but provided for a commencement date of October 11, 1985.

As indicated above, the lease requires Lessee to pay market rent as determined by periodic independent appraisal. However, by statute and current Board policy, the Board is authorized to lease State lands to qualifying eleemosynary (charitable) organizations at nominal rent. The statutory authority is as follows:

**§171-43.1 Lease to eleemosynary organizations.** The board may lease, at a nominal consideration, by direct negotiation and without recourse to public auction, public lands to an eleemosynary organization which has been certified to be tax exempt under sections 501(c)(1) or 501(c)(3) of the Internal Revenue Code of 1986, as amended. The lands shall be used by such eleemosynary organizations for the purposes for which their charter was issued and for which they were certified by the Internal Revenue Service. [L 1970, c 83, §5; am L 1971, c 100, §1; am L 1982, c 202, §1; am L 1991, c 212, §3]

A section 501(c)(1) organization must be both organized by an Act of Congress and be an instrumentality of the United States, while a section 501(c)(3) organization is a privately organized charitable organization.

When considering lease dispositions to, or rental reopenings for, eleemosynary organizations, the Board may therefore set the rent by direct negotiation at an amount below fair market rental (i.e., nominal rent). On May 13, 2005, the Land Board established a Minimum Rent Policy that stated, among other things, that the minimum rent for a lease to a charitable organization be no less than \$480 per year. Staff believes "nominal rent" under Section 171-43.1, Hawaii Revised Statutes ought to be anywhere between fair market rent and the minimum rent of \$480 per year. In order to have a standard nominal rent for qualifying non-profit tenants, staff generally recommends rent be set at \$480 per year.

Lessee submitted an Application and Qualification Questionnaire for non-profit status, a redacted copy of which is attached as Exhibit B. The application provides information on Lessee's operations, services, program measurements, budget and funding, and includes evidence of Lessee's 501(c)(3) status.

In the past three years, Lessee was issued notices of default for failure to post required liability insurance policies on April 25, 2008, March 25, 2009, and April 14, 2010. The defaults were all timely cured.

The Board waived the performance bond requirement for this lease at its meeting of April 12, 1996, Item D-5. Now that the rent is being reduced to a nominal amount, staff believes it is appropriate to reinstate the performance bond, which is calculated at two times the annual rent pursuant to the lease.

#### RECOMMENDATION:

That the Board:

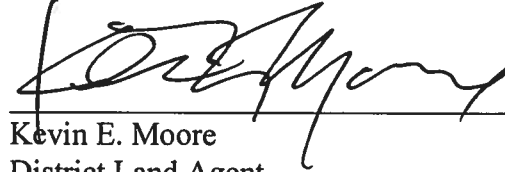
1. Authorize the amendment of General Lease No. S-5335, Hilo Baptist Church,

October 14, 2010

Lessee, for the purpose of adding that effective October 11, 2010 to October 10, 2020 the annual rent shall be FOUR HUNDRED EIGHTY AND NO/100 DOLLARS (\$480.00) per annum, subject to:

- A. The standard terms and conditions of the most current lease amendment document form, as may be amended from time to time;
  - B. Review and approval by the Department of the Attorney General; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Reinstate the performance bond required under the lease.

Respectfully Submitted,

  
\_\_\_\_\_  
Kevin E. Moore  
District Land Agent

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
Laura H. Thielen, Chairperson



**APPLICATION AND QUALIFICATION QUESTIONNAIRE**  
(Non-Profit)

Write answers in the spaces provided. Attach additional sheets as necessary, clearly indicating the applicable section number.

**Part I: General Information**

1. Applicant's legal name: Hilo Baptist Church
2. Applicant's full mailing address:  
Hilo, HI 96720
3. Name of contact person: \_\_\_\_\_  
Contact person Phone No.: \_\_\_\_\_ Fax No.: NA
4. Applicant is interested in the following parcel:  
Tax Map Key No.: (3) 2-4-56-14 Location: Waiakaa, Hawaii  
If Applicant is current lessee: General Lease No.: S-5335
5. When was Applicant incorporated? 1980
6. Attach the following:
  - A. Articles of Incorporation
  - B. Bylaws
  - C. List of the non-profit agency's Board of Directors
  - D. IRS 501(c)(3) or (c)(1) status determination
  - E. Tax clearances from State of Hawaii and respective county Real Property Tax Office.
  - F. Audited financial statements for the last three years. If not audited, explain why.  
If Applicant is a new start-up, attach projected capital and operating budgets.
  - G. Any program material which describes eligibility requirements or other requirements to receive services

**Part II: Qualification**

7. Is Applicant registered to do business in Hawaii: Yes/No
8. Has Applicant received tax exempt status from the Internal Revenue Service? Yes/No
9. Is Applicant licensed or accredited in accordance with federal, State or county statutes, rules, ordinances, to conduct the proposed activities? Yes/No

List all such licenses and accreditations required: see HBC Non-profit org. attachment

10. Is Applicant in default or otherwise not in good standing with any State department (e.g. POS agency, DCCA, DLNR, etc.)? Yes No

If yes, explain:

**EXHIBIT B**

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11. Has Applicant had a State of Hawaii lease, permit, license, easement or sale in fee cancelled within the last five years? If yes, list: Yes ☒ No

<u>Doc. No.</u>	<u>Type of Agreement</u>	<u>Term of Agreement</u>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>

12. Does Applicant have any policies which discriminate against anyone on the basis of race, creed, color, national origin, sex or physical handicap? Yes ☒ No

If yes, explain:

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13. Has Applicant received funding from a federal, State, or county government agency, the Aloha United Way, and/or a major private foundation within the last three years? Please list all such contracts below: Yes ☒ No

<u>Agency</u>	<u>Contract Term</u>	<u>Contract Amount</u>
<hr/>	<hr/>	\$ <hr/>
<hr/>	<hr/>	\$ <hr/>
<hr/>	<hr/>	\$ <hr/>
<hr/>	<hr/>	\$ <hr/>
<hr/>	<hr/>	\$ <hr/>
<hr/>	<hr/>	\$ <hr/>
<hr/>	<hr/>	\$ <hr/>
<hr/>	<hr/>	\$ <hr/>

14. If Applicant has not received funding from a federal, State or county government agency, the Aloha United Way and/or a major private foundation during the past three years, describe Applicant's qualifications to effectively perform the proposed services, including but not limited to, grants or subsidies received from non-major, private fundors and/or staff or Board members who possess significant experience in Applicant's service field.

weekly offerings of worship attendees

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Part III: Program Activities and Persons to be Served

15. What activities will be conducted on the premises to be leased?  
worship, Sunday School, Bible classes, Vacation Bible School  
Teacher/Leadership training,
16. What are the specific objectives of these activities?  
spiritual growth of participants  
acquiring Bible knowledge for daily living  
emotional well-being through gathering with others for worship &  
fellowship ... worship leadership & community outreach
17. Describe the community need for and the public benefit derived from these activities.  
Every person is a spiritual being. Spiritual & emotional  
well-being is a desirable goal that affects every daily  
activity. Physical activities for children & youth are  
provided on a continuing basis.
18. Describe the targeted population for these activities by: 1) age group, 2) gender, 3) ethnic background, 4) income level, 5) geographic location of residence, 6) special needs/disability, and 7) other applicable characteristic(s).  
All age groups, all ethnic groups, all income levels, all  
gender groups  
- a geographic area covering reasonable travel distances  
- we meet ADA requirements given by Hawaii County  
- we provide worship in English, Ilocano, Chinese, Cantonese
19. Describe all eligibility requirements of clients to participate in the activities, e.g. age, income level, ethnic background, income level, disability, etc.  
As a Christian congregation we do not place eligibility  
requirements on participants
20. Do you require membership to participate in these activities? Yes No  
If yes, list the requirements of becoming and remaining a member:



21. How many unduplicated persons will engage in the activities annually?

<u>Activity</u>	<u>Persons Per Year</u>
Worship	250
Sunday School	100
Music Program	40
Week-night Bible Study	25

22. Is State funding made available for the activities to be conducted on the leased premises?

Yes ☒ No

If yes, by which State agency: \_\_\_\_\_

23. List all activities to be conducted on the leased premises which require payment of excise taxes, e.g. subleasing, sale of products or services. Include an estimate of annual gross revenues from each activity.

none

#### Development of the Land

24. Describe the proposed site development plan for the property, indicating the location and size of buildings, parking areas, landscaped areas and related uses. Attach sketch of plan if available.

We are currently planning to add c. 60 parking spaces & a retaining wall c. 60' long to prepare for additional restrooms & classrooms. The plans are drawn but have not been submitted to DLNR or Hi. County Bldg Dept for approval

25. What improvements to the land do you intend to make and at what cost? \$

60 parking spaces & retaining wall - c. 250,000  
additional restrooms, enlarged kitchen area, classrooms - c. 400,000

26. How will the improvements be funded?

Member donations

27. Describe all environmental, land use and other permitting requirements which must be met to develop the land as proposed.

Approval by DLNR  
Hawaii County Approval

28. Will you be subleasing any portion of the property? If yes, describe the sublease uses:

NO

Part V: Notarized Certification

I/We hereby certify that the statements and information contained in this Application and Questionnaire, including all attachments, are true and accurate to the best of my/our knowledge and understand that if any statements are shown to be false or misrepresented, I/we may be disqualified from receiving a lease or my/our lease may be canceled.

Hilo Baptist Church

Applicant Name

Applicant Name

By:

By:

Its: Reverend

Its:

Date: July 13, 2010

Subscribed and sworn to before me this  
13th day of July, 2010.

Winifred L.E. Makaea  
Winifred L.E. Makaea

Notary Public

County of: Hawaii

State of: Hawaii

My commission expires: 8-29-12



Doc. Date: 7-13-10 # Pages: 5

Notary Name: Winifred L.E. Makaea 3rd Circuit

Doc. Description: Application +

Qualification Questionnaire

Winifred L.E. Makaea 7-13-10

Notary Signature

Date



FILL OUT TWO COPIES

CASE NO. \_\_\_\_\_

RP Form 19-77 (Rev 4/02)

DEPT. OF FINANCE

COUNTY OF HAWAII  
REAL PROPERTY TAX DIVISION

Aupuni Center, 101 Pauahi St., Ste. No. 4, Hilo, Hawaii 96720

75-5706 Kuakini Hwy., Ste. 112, Kailua-Kona, Hawaii 96740

Phone: HILO (808)961-8201 KONA (808)327-3540

TAX MAP KEY/PARCEL ID					
ISLE	Z	S	PLAT	PARCEL	CPR
3	2	4	56	27	---

Apt. No. \_\_\_\_\_

**CLAIM FOR CHARITABLE AND MISCELLANEOUS EXEMPTION**

Exemption is hereby claimed from Real Property under County Ordinance Chapter 19 Section 19-77.

*effective by  
7/1/10*

- ☐ SCHOOL  
☐ HOSPITAL/NURSE HOME  
☒ CHURCH  
☐ OTHER SPECIFY: \_\_\_\_\_
- ☐ CEMETERY  
☐ PUBLIC USE  
☐ NON-PROFIT

Name of Organization: Hilo Baptist Church

Mailing Address: \_\_\_\_\_, Hilo, HI 96720

Telephone Number \_\_\_\_\_

1. Explain the charitable or miscellaneous use: worship, teaching, preaching, fellowship ministry, discipleship
2. Is all the land and/or buildings used exclusively for the purpose claimed? ☒ Yes ☐ No
3. If the answer is no, explain and state area used for business.
4. Submit documentation from the Internal Revenue Service verifying exemption status.

**CERTIFICATION**

I declare, under penalty of law, that all statements in this return are true and correct to the best of my knowledge. I understand that any misstatement of facts will be grounds for disqualification and penalty.

Date February 16 2009

(Print Officer's Name)

Officer's Signature

**(For Tax Office Use Only)**

Date Received (U.S. Postmark): Counter April 1 2009 Effective \_\_\_\_\_ Tax Year

By: Chen K. Haleman Claim Disallowed for \_\_\_\_\_ Tax Year

Input Date: \_\_\_\_\_ Input Date: \_\_\_\_\_

By: \_\_\_\_\_ By: \_\_\_\_\_

Reason: \_\_\_\_\_

PITT \_\_\_\_\_ EX CD \_\_\_\_\_ CARD # \_\_\_\_\_ BUILDING % \_\_\_\_\_ LAND % \_\_\_\_\_

**Internal Revenue Service**

**Date:** May 7, 2007

**HILO BAPTIST CHURCH**

**HILO**

**HI 96720-4073 002**

**Department of the Treasury  
P. O. Box 2508  
Cincinnati, OH 45201**

**Person to Contact:**

**Ms. Jackson 31-07417**

**Customer Service Representative**

**Toll Free Telephone Number:**

**877-829-5500**

**Federal Identification Number:**

**Group Exemption Number:**

**1606**

Dear Sir or Madam:

This is in response to your request of May 7, 2007, regarding your organization's tax-exempt status.

Your organization is exempt under section 501(c)(3) of the Code because it is included in a group ruling issued to Hawaii Pacific Baptist Convention, located in Honolulu, Hawaii.

Our records indicate that contributions to your organization are deductible under section 170 of the Code, and that you are qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 2522 of the Internal Revenue Code.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

Sincerely,

*Michelle M. Sullivan*